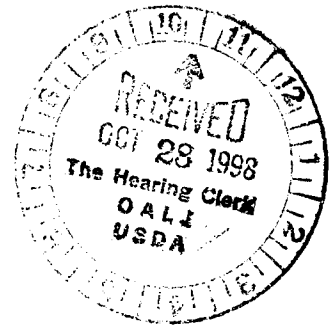


Effective  
10-28-98



UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	PACA Docket No. D-98-0015
	)	
Lakeside United Foods, Inc.,	)	
d/b/a Farm Fresh, Dist., Farm Fresh	)	
Distributors, Farm Fresh Fruit & Veg.,	)	
and Farm Fresh Produce,	)	
	)	
Respondent	)	

DECISION WITHOUT HEARING BY REASON OF CONSENT

In this proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.) (PACA), a Notice to Show Cause and Complaint was filed against Respondent Lakeside United Foods, Inc., d/b/a Farm Fresh, Dist., Farm Fresh Distributors, Farm Fresh Fruit & Veg., and Farm Fresh Produce (hereinafter referred to as "Respondent") on February 27, 1998, and served on March 7, 1998.

The Notice to Show Cause and Complaint issued against Respondent alleged that it had willfully, flagrantly and repeatedly violated section 2(4) of the PACA by failing to make full payment promptly to seven sellers of the agreed purchase prices totaling \$126,164.93 in connection with 65 transactions involving perishable agricultural commodities which Respondent had purchased, received and accepted in interstate commerce during the period December 11, 1997 through January 26, 1998. The Notice to Show Cause and Complaint also alleged that Respondent had willfully, flagrantly and repeatedly violated section 2(4) of the PACA by failing to make full payment promptly to 14 sellers of the agreed purchase prices in the total amount of \$340,465.71 for 189 lots of perishable agricultural products which it purchased,

received, and accepted in interstate commerce during the period October 10, 1996 through January 26, 1998; on average, Respondent made full payment on these transactions 70 days after the date that payment was due. The Notice to Show Cause and Complaint requested a finding that Respondent had committed willful, flagrant and repeated violations of the PACA. It further requested that Respondent's license application, received by Complainant on February 12, 1998, be denied because Respondent had engaged in practices of a character prohibited by the PACA by committing willful, repeated and flagrant violations of Section 2(4) of the PACA.

Complainant and Respondent have now agreed to the entry of a Decision and Order as set forth herein. Therefore, this Decision Without Hearing by Reason of Consent is entered without further procedure or hearing pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

#### Findings of Fact

(1) Lakeside United Foods, Inc., doing business as Farm Fresh Dist., Farm Fresh Distributors, Farm Fresh Fruit & Veg., and Farm Fresh Produce (hereinafter "respondent") is a Michigan corporation whose business address and mailing address is 120 S. Green Street, Detroit, Michigan 48207.

(2) Pursuant to the licensing provisions of the Act, license number 890093 was issued to Respondent on October 25, 1988, was renewed annually, but terminated on October 25, 1997, pursuant to Section 4(a) of the Act (7 U.S.C. 499d(a)) when Respondent failed to pay the required annual license fee.

(3) Complainant received an application for a PACA license from the Respondent on January 2, 1998. This application was returned to respondent on February 12, 1998 because the application contained incorrect ownership information. Complainant received a second

application from Respondent on January 29, 1998. This application was returned to Respondent on February 12, 1998 because the application contained incomplete ownership information. On February 12, 1998, Respondent submitted the application at issue in this matter.

(4) As more fully set forth in paragraph III(a) of the Notice to Show Cause and Complaint, Respondent failed to make full payment promptly to seven sellers of the agreed purchase prices totaling \$126,164.93 in connection with 65 transactions involving perishable agricultural commodities which Respondent purchased, received and accepted in interstate commerce during the period December 11, 1997 through January 26, 1998.

(5) As more fully set forth in paragraph III(b) of the Notice to Show Cause and Complaint, Respondent failed to make full payment promptly to 14 sellers of the agreed purchase prices totaling \$340,465.71 in connection with 189 transactions involving perishable agricultural commodities which Respondent purchased, received and accepted in interstate commerce during the period October 10, 1996 through January 26, 1998; on average, Respondent made full payment on these transactions 70 days after the date that payment was due.

(6) Respondent is not currently in compliance with the payment provisions of the Act.

(7) Respondent has withdrawn its license application.

### Conclusions

Respondent has committed willful, flagrant and repeated violations of section 2(4) of the PACA (7 U.S.C. § 499b(4)) by failing to make full payment promptly for produce purchases, as set forth in Findings of Fact 4 and 5 above, for which the Order below is issued.

Order

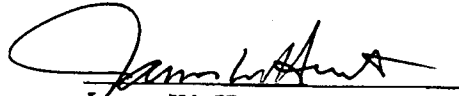
The facts and circumstances as set forth herein shall be published.

This order shall become final upon issuance.

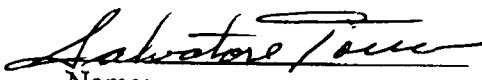
Copies hereof shall be served upon the parties.

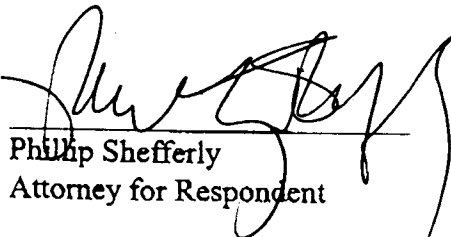
Done at Washington, D.C.

October 27, 1998

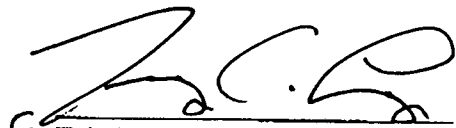
  
James W. Hunt  
Administrative Law Judge


For Respondent

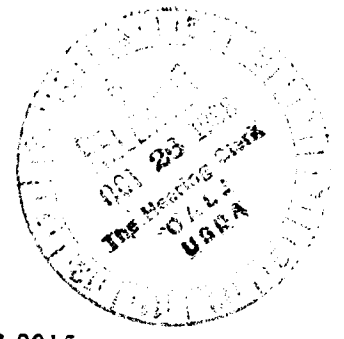
  
Name:  
Title: *President*  
SALVATORE TOCCO

  
Philip Shefferly  
Attorney for Respondent

For Complainant

  
for Eric M. Forman  
Associate Deputy Administrator  
Fruit and Vegetable Division  
Agricultural Marketing Service

  
JoAnn Waterfield  
Attorney for Complainant



UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re:

PACA Docket No. D-98-0015

Lakeside United Foods, Inc.,  
d/b/a Farm Fresh, Dist., Farm Fresh  
Distributors, Farm Fresh Fruit & Veg.,  
and Farm Fresh Produce.

Respondent

WITHDRAWAL OF LICENSE APPLICATION

Respondent, Lakeside United Foods, Inc., d/b/a Farm Fresh, Dist., Farm Fresh  
Distributors, Farm Fresh Fruit & Veg., and Farm Fresh Produce, hereby withdraws its license  
application in the above-captioned matter. Complainant is aware that Respondent is withdrawing  
its license application.

Respectfully submitted,

Title: Sam Puccio  
Date: 7/15/98  
On behalf of Respondent

President of  
Lakeside United  
Foods, Inc.